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6 IN THE UNITED STATES DISTRICT COURT
7 FOR THE DISTRICT OF ARIZONA

8 United States of America,)

9 Plaintiff,)

10 vs.)

11 Alexandro Marrufo,)

12 Defendant.)
13 _____)

No. CR 17-861-TUC-CKJ

14 Pending before the Court is the Joint Motion for Early Termination of Supervised
15 Release (Doc. 42). The government and Alexandro Marrufo (“Marrufo”) request the Court
16 to issue an order terminating Marrufo’s supervised release.

17 Mr. Max Richards of the District of Arizona Probation Office has submitted a report
18 to the Court regarding the request. The report indicates the out-of-state probation officer
19 stated that, although she has received one email from the AUSA, she has not responded to
20 that email. Further, she has not spoken to either counsel. The out-of-state probation officer
21 further stated Marrufo has not had any positive drug tests since June 2018, works in the
22 construction field, resides with his parents, needs to be reminded to submit monthly reports,
23 and has an outstanding \$200 special assessment fee. Additionally, as Marrufo has an
24 unresolved warrant out of Cochise County, the out-of-state probation officer opposes early
25 termination. Further, Mr. Richards opposes early termination.

26 The Court may:

27 after considering the factors set forth in section 3553(a)(1), (a)(2)(B), (a)(2)(C),
28 (a)(2)(D), (a)(4), (a)(5), (a)(6), and (a)(7) . . . terminate a term of supervised release
and discharge the defendant released at any time after the expiration of one year of

1 supervised release, pursuant to the provisions of the Federal Rules of Criminal
2 Procedure relating to the modification of probation, if it is satisfied that such action
3 is warranted by the conduct of the defendant released and the interest of justice[.]
4 18 U.S.C. 3583(e)(1). These factors concern “‘general punishment issues such as deterrence,
5 public safety, rehabilitation, proportionality, and consistency,’” as well as the need for
6 restitution. *United States v. Sine*, No. CR-S-02-079 KJM, 2012 WL 1901298 *2 (E.D.Cal.
7 2012), (citations omitted). An offender has the burden to demonstrate that early termination
8 of supervised release is justified. *United States v. Weber*, 451 F.3d 552, 559 n. 9 (9th Cir.
9 2006).

10 Federal “[c]ourts have generally held that something more than compliance with the
11 terms of probation is required to justify early termination [pursuant to 18 U.S.C. §
12 3583(e)(1)]. Early termination is usually granted only in cases involving changed
13 circumstances, such as exceptionally good behavior.” *United States v. Hawatmeh*, No. LA
14 CR 08-00385-VBF-3, 2014 WL 11970544, at *4 (C.D. Cal. Sept. 19, 2014) (citations
15 omitted). A defendant typically carries his burden “by alerting the district court to
16 ‘unforeseen’ or ‘changed circumstances’ that implicate its initial sentencing decision and
17 analysis.” *United States v. Emmett*, 749 F.3d 817, 824 (9th Cir. 2014) (quoting *United States*
18 *v. Miller*, 205 F.3d 1098, 1101 (9th Cir. 2000)). Changed circumstances may include
19 “exceptionally good behavior by the defendant” or other factors that “render a previously
20 imposed term or condition of release either too harsh or inappropriately tailored to serve the
21 general punishment goals of section 3553(a).” *Miller*, 205 F.3d at 1001 (quoting *United*
States v. Lussier, 104 F.3d 32, 36 (2nd Cir. 1997)). Indeed, the Ninth Circuit has stated:

22 A defendant's “exceptionally good behavior” may render a previously-imposed
23 sentence inappropriate or too harsh, but as the district courts of our circuit have
24 repeatedly recognized, mere compliance is to be expected. *United States v. Miller*,
25 205 F.3d 1098, 1101 (9th Cir.2000) (quoting *United States v. Lussier*, 104 F.3d 32,
26 36 (2d Cir.1997)); *United States v. Bauer*, No. 5:09-cr-00980, 2012 WL 1259251,
27 at *2 (N.D.Cal. Apr. 13, 2012) (it is “apparent that the reasons cited by
28 Defendant—compliance with release conditions, resumption of employment and
engagement of family life—are expected milestones rather than a change of
circumstances rendering continued supervision no longer appropriate”); *United States*
v. Grossi, No. CR-04-40127, 2011 WL 704364, at *2 (N.D.Cal. Feb. 18, 2011)
 (“Mere compliance with the terms of supervised release is what is expected, and
without more, is insufficient to justify early termination.”).

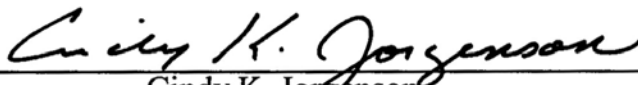
1 *United States v. Emmett*, 749 F.3d 817, 824 n. 2 (9th Cir. 2014). Further, because §
2 3583(e)(1) includes “[t]he expansive phrases ‘conduct of the defendant’ and ‘interest of
3 justice,’” it is “clear that a district court enjoys discretion to consider a wide range of
4 circumstances when determining whether to grant early termination.” *Emmett*, 749 F.3d at
5 819.

6 Here, the Court considers the circumstances of the offense and Marrufo’s limited
7 criminal history. The Court also considers that Marrufo accepted responsibility in this case,
8 but has not resolved the outstanding assessment fee or warrant. The Court finds that, while
9 an early termination is not inconsistent with policy statements of the Sentencing
10 Commission,¹ an early termination of supervised release would not adequately deter criminal
11 conduct. The Court also considers the opposition to the request by the out-of-state probation
12 officer and Mr. Richards.

13 The burden is on Marrufo to justify early an early termination of supervised release.
14 Marrufo has not shown any exceptionally good behavior or other changed circumstances to
15 warrant a modification of his release.

16 Accordingly, IT IS ORDERED the Joint Motion for Early Termination of Supervised
17 Release (Doc. 42) is DENIED.

18 DATED this 16th day of July, 2019.

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21 
22 Cindy K. Jorgenson
23 United States District Judge
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26 ¹ “[T]he Commission has not promulgated any guidelines or policy statements
27 addressing early termination of supervised release, but limited its policy guidance to
28 violations of supervised release.” *United States v. Harris*, 258 F. Supp. 3d 137, 145 (D.D.C.
2017) (citing U.S.S.G., Ch. 7, Pts. A & B).